

KELLOGG, HANSEN, TODD, FIGEL & FREDERICK, P.L.L.C.

SUMNER SQUARE
1615 M STREET, N.W.
SUITE 400
WASHINGTON, D.C. 20036-3215

(202) 326-7900

FACSIMILE:
(202) 326-7999

April 10, 2017

Via ECF

The Honorable Sarah Netburn
United States District Court for the Southern District of New York
Thurgood Marshall United States Courthouse
40 Foley Square, Room 430
New York, NY 10007

Re: *In re Terrorist Attacks on September 11, 2001*, 03 MDL 1570 (GBD) (SN)
(All Actions)

Dear Judge Netburn:

The Kingdom of Saudi Arabia (“Saudi Arabia”) writes in response to Mr. Kreindler’s letter of April 7, 2017. The thrust of his letter is that Saudi Arabia “has no reason to complain about our response to press inquiries” because “Saudi Arabia’s counsel[] has made statements to the press on Saudi Arabia’s behalf in this case.” Mr. Kreindler gives three examples. None of them are apposite.

In the first, from 2009, the case against Saudi Arabia was no longer within the jurisdiction of the district court. It had been dismissed in 2005, and that dismissal had been affirmed by the Second Circuit. The plaintiffs’ petition for certiorari was pending before the United States Supreme Court when plaintiffs’ counsel provided to the N.Y. Times thousands of pages of materials that had never been filed in court or provided to defense counsel, and claimed that these materials would show Saudi Arabia’s complicity in the 9/11 attacks – resulting in an article entitled “Documents Back Saudi Link to Extremists.” That was the context in which my statement was made.¹

In the second, from 2013, the case again was not pending in district court. Plaintiffs had filed a 60(b) motion to reopen the case against Saudi Arabia, which was denied. On appeal, the Second Circuit reversed. I provided a statement noting that Saudi Arabia believed the decision

¹ Eric Lichtblau, *Documents Back Saudi Link to Extremists*, N.Y. Times, June 23, 2009, <http://www.nytimes.com/2009/06/24/world/middleeast/24saudi.html>.

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to be incorrect and unfortunate and planned to seek further review. In the article, my statement is juxtaposed with a contrary statement from counsel for the plaintiffs.²

In the third, plaintiffs had engaged in a substantial lobbying effort in the executive and legislative branches to declassify 28 pages of material from the House-Senate Intelligence Committee Report on 9/11. Saudi Arabia issued a statement agreeing that the materials should be de-classified as they had nothing to hide. I further responded briefly to the statement of plaintiffs' Declarant, former Senator Bob Graham, that the materials would demonstrate that one Omar Bayoumi was a Saudi agent complicit in the 9/11 attacks.³

None of these statements can remotely be said to violate Judge Casey's directive to counsel. And they stand in marked contrast to the press blitz conducted by Mr. Kreindler after he filed his new complaint, culminating in a multi-page, photo-spread article in which he described his main allegations and presented his theory of the case.

Mr. Kreindler is correct that there is "tremendous public interest in the case." But that public interest is not served if one side considers itself free to comment in the press and the other side feels obliged to respond with "no comment."

The lawyers for all the parties should be presenting their case in their pleadings and in their arguments in open court. We respectfully request that the Court re-affirm Judge Casey's admonition to that effect.

Respectfully submitted,

/s/ Michael K. Kellogg

Michael K. Kellogg

cc: Chambers of the Honorable George B. Daniels (via facsimile)
All MDL Counsel of Record (via ECF)

² Jonathan Stempel, *U.S. Court Revives 9/11 Victims' Case Against Saudi Arabia*, Reuters, Dec. 19, 2013, <http://www.reuters.com/article/us-usa-saudi-arabia-sept-idUSBRE9BI0ZX20131219>.

³ Robert Kennedy, *9/11's Secret 28-page History*, Al Jazeera, Sept. 10, 2014, <http://www.aljazeera.com/indepth/features/2014/09/911-secret-28-page-history-201499122529308836.html>.